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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dan L. Eaton et al.	Group Art Unit: 1646
Serial No.: 10/015,967	Examiner: Dong Jiang
Filed: December 7, 2001	Attorney Docket No: 22338-501 (P1447R1)
Confirmation No.: 9428	
Title: Interleukin-8 Homologous Polypeptides and Therapeutic Uses Thereof	

Mail Stop: Patent Extension  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)**

Sir:

The Applicant respectfully submits this Application for Patent Term Adjustment to request reconsideration of the patent term adjustment determination for the above-identified application that was provided in the Notice of Allowance. This Application for Patent Term Adjustment is being filed concurrently with the payment of the issue fee for this application and is therefore timely under 37 C.F.R. § 1.705(b). As required by §1.705(b)(1), the Applicant expressly authorizes the Commissioner to charge the required fee for this Application under 37 C.F.R. § 1.18(e) for Patent Term Adjustment to Sidley Austin, LLP's Deposit Account Number 18-1260. Pursuant to § 1.705(b)(2), the Applicant provides the following statement of facts.

As detailed below, the Applicant believes that the patent application is entitled to 298 days of patent term adjustment due to delay by the United States Patent and Trademark Office ("PTO"). However, on January 24, 2007, the PTO issued a Notice of Allowance for the above-identified application that includes a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) indicating the patent term adjustment date is 0 days. Applicant believes that the patent term adjustment date noted in the Notice of Allowance is incorrect and respectfully requests

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Application for Patent Term Adjustment under § 1.705(b)

to "a supplemental reply or other paper expressly requested by the examiner." According to the PTO, a supplemental reply requested by the examiner includes "a supplemental amendment carrying into effect agreements reached between the applicant and the examiner" (*see* 65 Fed. Reg. 56366, 56385 (Sept. 18, 2000)). The Applicant asserts, therefore, that the time period between the filing of the Applicant's Brief of August 31, 2005 and the Supplemental Response of November 16, 2006 should not have been counted against the Applicant because, under § 1.704(c)(8), the Supplemental Response was filed to carry into effect the agreement reached between the Applicant and the Examiner during the November 2, 2006 interview.

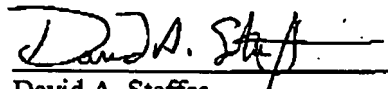
**Final Proposed Calculation of the Patent Term Extension**

For the foregoing reasons, the Applicant believes that the reduction in the period of adjustment due to Applicant delay is 134 days ( $576 - 442$  (the incorrectly charged time period) = 134). As such, the Applicant believes that the correct total patent term adjustment for the above-identified application is 298 days ( $432 - 134 = 298$ ) (*see* 37 C.F.R. § 1.703(f)).

The Applicant notes that a final patent term adjustment is determined based upon the actually issue date of the patent. *See, e.g.*, 37 C.F.R. § 1.702. Accordingly, the Applicant reserves the right to make additional arguments regarding the patent term adjustment provided by the PTO based on the actual date of issuance of the patent.

Respectfully submitted,

April 24, 2007

  
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